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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,493

11/28/2003

Tse-Hsien Liao

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09/15/2009

ROSENBERG, KLEIN & LEE

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EXAMINER

NGUYEN, TRAN N

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

09/15/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoactions@rkpatlaw.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/722,493	<b>Applicant(s)</b> LIAO, TSE-HSIEN	
	<b>Examiner</b> Tran Nguyen	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10,12,14-16 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10,12,14-16 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Notice to Applicant***

This communication is in response to the communication filed 06/02/2009.

Pending claim(s): 1-7, 9-10, 12, 14-16, 23. Cancelled claim(s): 8, 11, 13, 17-22, 24-27.

Amended claim(s): 1-7, 9-10, 12, 14, 16, 23.

***Response to Amendment***

As per the Office Action mailed 03/06/2009:

The objection of claims 1-3, 5, 7-12, 21-24, 26-27 for informalities is hereby withdrawn in view of Applicant's cancellation of claims 8, 11, 21-22, 24, 26-27 and amendment of claims 1-3, 5, 7, 9-10, 12, 23.

The rejection of claims 1-13, 16, 18, 22, 25-27 under 35 USC 112, second paragraph is hereby withdrawn in view of Applicant's cancellation of claims 8, 11, 13, 18, 22, 25-27 and amendment of claims 1-7, 9-10, 12, 16.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim(s) 1-7, 9-10, 12, 14-16 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5832448) in view of Crawford (5331549).

As per claim 1, Brown teaches a system (Title, Abstract) capable of monitoring (reads on "inspection") health (Abstract), comprising:

(a) a plurality of monitoring devices (reads on "health measurement devices") (Figure 1 label 42), wherein each monitoring device is capable of measuring patient data (reads on "a specific health parameter of a living body") (Figure 1 label 42), processing the monitored data (reads on "a function processor for establishing health measurement data") (Figure 2 label 50), and sending the monitored data to a master patient database (Figure 2) over a communication network (Figure 1 label 34);

(b) a clinic server (reads on "a processing center") remote from the plurality of monitoring devices comprising a computer (reads on "a main board"), a modem (reads on "at least one signal receiver"), and a processor (Figure 1 label 10) capable of receiving the monitored data, wherein the system comprises computer memory (Figure 1 label 18) and software capable of processing the monitored data (reads on "an

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accessory system", wherein data storage inherently comprises "analyzing" because the data must be read into the system for storage) (Figure 1 label 20).

Brown further teaches monitoring the elapsed time since the patient last reported (reads on "at least one alarm... indicating said received health measurement data exceeds sad preestablished health value") (Figure 3).

Notwithstanding the above, Crawford teaches a warning alarm signal when any one of more vital signs of an individual patient is outside of a predetermined limit (Abstract and throughout).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Crawford within the embodiment of Brown with the motivation of alerting physicians of patient conditions requiring attention.

As per claim 2, Brown teaches data provided via the network (reads on "a data input device") (Figure 1 label M1), wherein the data comprises patient identifying data stored with monitored data (Figure 2 label 60).

As per claim 3, Brown teaches:

(a) blood pressure (reads on "sphygmomanometer") (column 5 line 35-36);

(f) blood glucose (reads on "blood sugar testing instrument") (column 5 line 35).

Insofar as the remainder of the claim is concerned, the applied art need not teach these limitations in view of the optional limitations recited therein.

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As per claim 4, this claim is rejected for substantially the same rationale as applied to claim 1 above, and incorporated herein.

Brown further teaches a patient computer (reads on “a plurality of function keys”) (Figure 1 label 36) capable of recording patient data (Figure 6 label 200).

As per the set of claim(s): 5, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 1, respectively, and incorporated herein.

As per claim 6, Brown teaches that the system is capable of identifying the patient to the patient site computer (reads on “identity data”) (Figure 1 label 44, Figure 3 label 70) and storing the patient data in the patient site computer (Figure 1 label 36).

As per claim 7, Brown teaches modem (reads on “wired signal receiver”) (Figure 1 label M2).

Insofar as the remainder of the claim is concerned, the applied art need not teach these limitations in view of the optional limitations recited therein.

As per claim 9, Brown does not teach “a sound alarm, a visual alarm, or a combination thereof”.

Crawford teaches visual and audio alarm (column 10 line 25).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Crawford within the embodiment of Brown and Crawford with the motivation of alerting physicians of patient conditions requiring attention.

As per claim 10, Brown teaches a communication network (Figure 1).

As per the set of claim(s): 12, 14, 16, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 7, 1, 2, respectively, and incorporated herein.

As per claim 15, Brown teaches a graph (Figure 3).

Claim(s) 23 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Crawford as applied to parent claim 14, and further in view of Applicant Admitted Prior Art.

As per claim 23, this claim is rejected for substantially the same rationale as applied to claim 4 above, and incorporated herein.

Brown and Crawford do not teach "a sphygmomanometer".

Page 1 of the specification of the instant pending application reads as follows:

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Referring to Fig. 1, there is shown a conventional sphygmomanometer, mainly comprising a host 11, a display window 13, function keys 15, a signal transmission line 17, and a cuff with bladder 19. The cuff with bladder 19 is used to contact a part of body of the user in order for measuring specific health signals of the user, such as blood pressure and heartbeat, as examples. Next, this data may be processed initially to form a specific health signal enabling to be transmitted, and then, the latter may be delivered to the host 11 via the signal transmission line 17 and further processed by a device, such as microprocessor, provided inside the host. Finally, this signal may be displayed on the display window 13 for achieving the object of inspecting this specific health signal.

Figure 1 of the specification reads as follows:



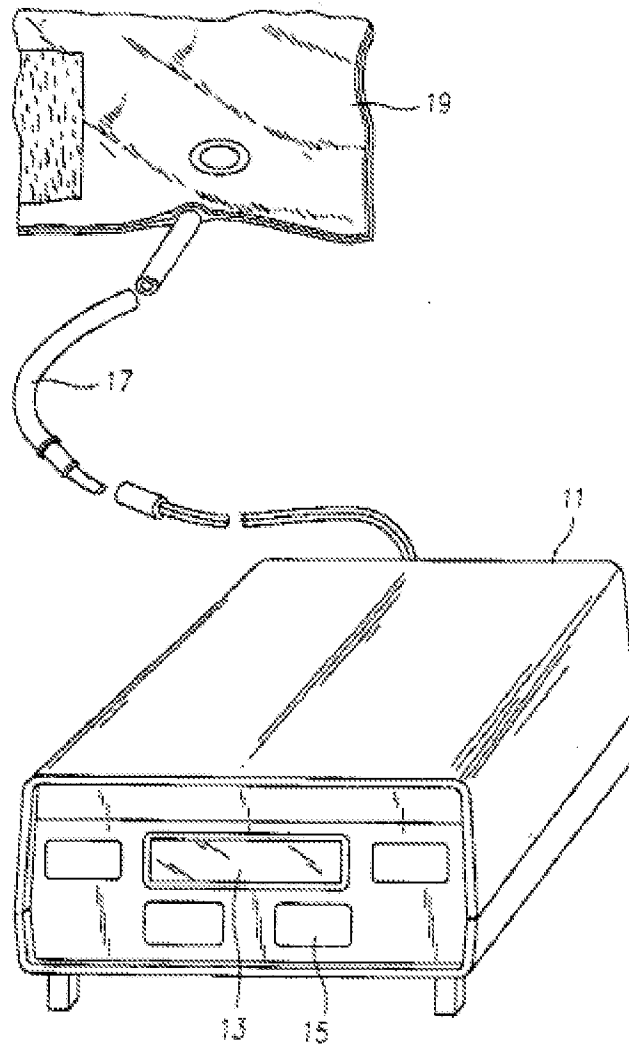


FIG. 1  
(PRIOR ART)

All component parts are known. The only difference is the combination of "old elements" into a single embodiment.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of AAPA within the embodiment of

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Brown and Crawford, since the operation of the medical device is in no way dependent on the monitoring system, and a standard monitoring device may be used with a data processing system to achieve the predictable result of monitoring patient vitals.

### ***Response to Arguments***

Applicant's arguments filed 06/02/2009 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1, 5, 14 on page 13 have been considered but are moot in view of the new ground(s) of rejection.

On page 13 Applicant argues:

Further, nowhere does brown disclose a health measurement device including a plurality of function keys for use in input of identity data corresponding to the living body, as now claimed in Claim 4.

Applicant provides no definition for “function key”.

Examiner interprets this limitation broadly to recite any key capable of being used to enter data.

In particular, Examiner considers a keyboard to be a form of “function keys”.

Accordingly, Brown teaches a patient computer for use to enter the monitored data, as discussed above and incorporated herein.

On page 13 Applicant argues that the applied art teaches away from the claimed combination.

Since no single applied reference teaches the claimed combination, it is not possible for any applied art to criticize, discredits, or otherwise discourage the claimed solution.

### ***Conclusion***

The new ground(s) of rejection presented in this Office action, if any, was/were necessitated by Applicant's amendment. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran (Ken) N. Nguyen whose telephone number is 571-

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270-1310. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3626

09/03/2009

/C. Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626